

**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

In the Matter of	)	
	)	
2000 Biennial Regulatory Review	)	CC Docket No. 00-229
Telecommunications Service Quality	)	
Reporting Requirements	)	

**COMMENTS OF BELLSOUTH**

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## **Summary**

Section 11 of the 1996 Telecommunications Act (“1996 Act”) requires the Commission to review biennially all regulations applicable to providers of telecommunications services and to modify or repeal any regulation no longer necessary in the public interest. ARMIS reports related to service quality and customer satisfaction clearly are no longer in the public interest. Indeed, these reports were originally implemented to monitor price cap incumbent local exchange carriers (“ILEC”) as they transitioned from rate of return regulation to price cap regulation. Price cap ILECs have fully demonstrated that incentive regulation will not cause them to allow a degradation of network quality. Accordingly, the Commission’s proposal to streamline the service quality reporting requirements simply does not go far enough. These reports have long outlived their usefulness and should be eliminated completely.

Moreover, the Commission should adhere to the intent of Section 11 of the 1996 Act and use these Biennial Review proceedings as opportunities to reduce regulation and not add new requirements. Therefore, the Commission should not adopt any of the new reporting proposals set forth in the *Notice* or recommended by NARUC.

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**COMMENTS OF BELL SOUTH**

BellSouth Corporation and BellSouth Telecommunications, Inc. (“BellSouth”) hereby file the following comments in response to the Notice of Proposed Rulemaking, FCC 00-399, released November 9, 2000 (“*Notice*”), requesting comment on proposed modifications to the ARMIS Report 43-05 Service Quality Report and the ARMIS Report 43-06 Customer Satisfaction Report.

**I. Regulatory Relief**

BellSouth applauds the Commission for proposing meaningful steps to reduce unnecessary regulation in furtherance of the pro-competitive, deregulatory intent of the Telecommunications Act of 1996 (the “1996 Act”). Section 11 of the 1996 Act requires the Commission to review biennially all regulations applicable to providers of telecommunications services and to modify or repeal any regulation no longer necessary in the public interest.<sup>1</sup> BellSouth is particularly encouraged by the Commission’s proposal to eliminate the 43-06 customer satisfaction report. It is a report that has long outlived its purpose and BellSouth is

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<sup>1</sup> 47 U.S.C. § 161(b).

pleased the Commission has recognized this point. The *Notice* evidences a strong commitment on the part of the Commission to this process in the area of reporting requirements.

**A. The ARMIS Reports Serve No Useful Purpose and Should Be Eliminated.**

The *Notice*, unfortunately, does not go far enough. Although the Commission proposes to streamline ARMIS reporting categories from thirty down to six, much of which would be reduced from the 43-05 service quality report, BellSouth contends that the six that will remain are also unnecessary. ARMIS report 43-05, without any hesitation by the Commission, should be eliminated. Its usefulness, just as the customer satisfaction report, has long passed.

The service quality report, as well as the customer satisfaction report, was adopted as part of the Commission's transition from rate of return to price cap regulation for the local exchange carriers ("LECs"). In the *LEC Price Cap Order*,<sup>2</sup> the Commission recognized that price cap regulation "will encourage the LECs in network modernization, advanced applications, and new services, through appropriate investment incentives."<sup>3</sup> Nevertheless, responding to what the Commission recognized was a "theoretical concern" that LECs might seek to increase short-term profits by reducing or delaying needed investments,<sup>4</sup> the Commission adopted new infrastructure and service quality monitoring requirements for the price cap LECs. In doing so, the Commission acknowledged:

We continue to believe, as stated in previous discussions, that under price caps the LECs will have increased incentive and opportunity to develop and introduce new services; to invest in new technology, like ISDN and SS7, that will promote cost savings and efficiencies; to innovate; and to upgrade their networks. These carriers are unlikely to jeopardize their network infrastructure, since it is their primary asset and is critical to their continued financial stability. We thus

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<sup>2</sup> *In the Matter of Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, *Second Report and Order*, 5 FCC Rcd 6786 (1990) ("LEC Price Cap Order").

<sup>3</sup> *Id.* at 6827, ¶ 333.

<sup>4</sup> *Id.* at 6827, ¶ 334.

consider it reasonable to expect that price cap carriers will continue to maintain the quality of their network and improve service to customers.<sup>5</sup>

The Commission adopted a reporting safety net because “we cannot predict *with certainty* the behavior of carriers operating under the price cap regulatory scheme, since they will be responding to different incentives than currently exist under rate of return regulation.”<sup>6</sup>

The Commission now has collected extensive data from the price cap LECs concerning their service quality and customer satisfaction under price cap regulation. The data demonstrate conclusively that the concerns used to justify the reporting requirements initially, *i.e.*, that the LECs might cannibalize their networks in pursuit of short term profits, were as unfounded as the Commission supposed them to be. Under such circumstances, the 1996 Act *requires* the Commission to eliminate, not add to, the unnecessary regulatory burdens that these reporting requirements impose.

Section 11 of the 1996 Act requires the Commission, in every even-numbered year, to review “all regulations issued under this Act in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service....”<sup>7</sup> The Commission is instructed to “repeal or modify” any unnecessary regulation.<sup>8</sup> Clearly, the existing reporting requirements contained in the service quality report and the customer satisfaction report are within the purview of Section 11. Under Section 11, the Commission can no longer extend

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<sup>5</sup> *Id.* at 6827, ¶ 335 (footnotes omitted).

<sup>6</sup> *Id.* (Emphasis added).

<sup>7</sup> 47 U.S.C. § 161(a)(1).

<sup>8</sup> 47 U.S.C. § 161(b). In announcing the Commission’s agenda to implement Section 11, which included reviewing the ARMIS reporting requirements, the Commission’s Chairman stated that the review “should result in a substantial amount of deregulation and streamlining.” FCC News Release, “FCC Staff Proposes 31 Proceedings as Part of 1998 Biennial Regulatory Review, Report No. GN 98-1, February 5, 1998 (quoting FCC Chairman William E. Kennard).

existing regulations uncritically, much less add to their burden,<sup>9</sup> without record-based findings that the regulations are necessary to protect the public interest. Just as with the customer satisfaction report that the Commission proposes to eliminate, BellSouth believes that no such finding is possible with regard to the service quality report. In any event, the Commission is under a statutory obligation either to justify both the existing and proposed reporting requirements, or to modify or eliminate them.

The *Notice* does not even attempt to justify the service quality report based on its original purpose, *i.e.*, to monitor the performance of LECs during the transition to price caps. Indeed, the reasons cited in the *Notice* for the revised versions of the report appear unrelated to its original purpose. The *Notice* states that the Commission's "goal is to make available to consumers the service quality information they need to make informed choices as competition develops." Thus, the *Notice* indicates that the purpose of the report has shifted from ensuring continued quality of service under price cap regulation through a monitoring of the network to serving as a customer guide to competitive services. While BellSouth certainly believes that customers should be well informed in making consumer decisions, BellSouth does not believe that the Commission should be a clearinghouse for only a few providers of service – the price cap ILECs. Indeed, the logic of such a proposal makes no sense under the current reporting requirements. The only carriers that are required to provide ARMIS reports are price cap ILECs. Thus, the only information reported is of a few carriers that have a proven track record for quality. To meet the objectives of the above stated goal and allow a customer to make an informed decision, a customer would need to compare service quality between his current provider and the entity from which the customer is contemplating obtaining service. What good would the information proposed in the

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<sup>9</sup> See Section II below.

*Notice* be to such a customer if only one carrier in the customer's region reports that information? What kind of informed decision could the customer make with that amount of limited information?<sup>10</sup>

Indeed, the service quality information of a few ILECs is of limited utility in an increasingly competitive market. If the ILEC does not provide high quality service, customers do not need to go to the Commission to see how well the LEC is performing overall. Such information would be of no value to the customer and would not promote the achievement of the above stated goal of the Commission. Customers who receive poor quality will do what consumers in competitive markets have done since the beginning of capitalism -- obtain service from a competitor.

Moreover, even in those areas where competition is not yet prevalent, ILECs try to increase their profitability by marketing additional lines and vertical services to existing customers. Customers are far more likely to be receptive to such marketing efforts if their existing service is high quality and they are satisfied with the ILEC. ILECs therefore have every incentive to provide high quality service to satisfy their customers. Thus, there is no need for regulators to obtain quality reporting from ILECs because customers can and will do it for themselves.

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<sup>10</sup> The *Notice* has a section seeking comments on the types of entities that should report the information proposed in the *Notice*. BellSouth addresses these comments below, but states that currently the only entities that are required to make service quality reports to the Commission are price cap ILECs. Moreover, BellSouth's experience has been that the Commission is reluctant to extend regulation that has historically been limited to ILECs to competitive local exchange carriers ("CLEC"). Unless the Commission requires CLECs to report service quality issues on a mandatory basis, which the Commission should not take up in this Section 11 Biennial Review proceeding, BellSouth contends that the reports will remain meaningless and should be completely eliminated.



**B. Even If Information Provided in Service Quality Report Was Useful, It Is Related to Local Services and Should Be Left to the States**

As BellSouth demonstrated above, the original intent of ARMIS service quality report was to monitor the *theoretical concerns* that the Commission had regarding network quality as ILECs moved to price cap regulation. Thus, the report is no longer necessary and the Commission should eliminate it completely instead of streamlining reporting categories down to six. Even if the information that would be required by the streamlined reports remained useful or necessary, however, it represents information related to the provision of local service. For example, the *Notice* proposes six reporting categories, 1) missed installation, 2) installation intervals, 3) trouble reports, 4) out-of-service troubles, 5) missed repair appointments, and 6) repair intervals. Each of these categories relate to the provision of local service and therefore should be left to the state public service commissions (“PSC”) to establish appropriate requirements for these categories. In BellSouth’s region, each state PSC has established its own service quality measurements. Accordingly, much of the information required by the streamlined quality would be redundant to information reported to the states. No public interest is served by requiring this duplicated reporting.

In addition to the proposal that ILECs maintain six reporting categories of service quality, the *Notice* asks for comments on other types of service quality information that consumers would find useful. An example of other types of information stated in the *Notice* was “whether carriers should report the length of time customers wait on hold before speaking to a customer service representative and the length of time a customer has to wait for a call back from a carrier.” The Commission should not impose this reporting requirement on ILECs. First, pursuant to BellSouth’s overall theme throughout these comments, the Commission should be either

repealing regulations or modifying regulations to reduce regulatory requirements in a Section 11 Biennial Review. The Commission should therefore follow the statute and look for ways to eliminate and not add ARMIS reporting requirements. Second, it has been BellSouth's experience, through customer surveys, that time to answer is not a key driver in customer satisfaction. Accordingly, requiring answer time intervals to be reported would be a waste of time for both the ILECs and the Commission. It simply is not a significant issue to the customer.

## **II. Other Information Requested by the Notice**

In addition to the proposal to streamline the service quality report, the *Notice* seeks comments regarding other issues related to that report. Throughout these comments BellSouth has made clear its position that the service quality report should be eliminated in its entirety, just as the Commission proposes to eliminate the customer satisfaction report. However, if the Commission does not eliminate this report but instead follows the proposal in the *Notice*, or some modification thereof, BellSouth provides the following comments concerning additional issues related to the report.

### **A. Broadband Services**

The *Notice* states “[o]ur current ARMIS reporting requirements only collect information about service quality for basic voice telephony (e.g., POTS). We seek comment on whether to gather information and report about service quality in the provision of broadband and other advanced services.”<sup>11</sup> As BellSouth discussed above, the purpose of a Biennial Review is to review existing regulation and “repeal and modify any regulation it determines to be no longer necessary in the public interest.”<sup>12</sup> Clearly any attempt to add regulation is therefore beyond the

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<sup>11</sup> *Notice* ¶ 26.

<sup>12</sup> 47 U.S.C. § 11(b).

scope of this proceeding. Accordingly, the Commission should eliminate the service quality report, not seek to add new requirements.

## **B. Types of Reporting Entities**

The *Notice* seeks comments on “imposing these new reduced service quality reporting requirements on a broader class of carriers than currently are subject to the more numerous requirements so that consumers may compare service quality of competing carriers.”<sup>13</sup> If the Commission continues to require any entity to report service quality pursuant to ARMIS, such information is of no value if it does not include representatives from the entire market. There are major telecommunications providers, as well as smaller providers, competing to provide local service to business customers throughout the BellSouth region. Such competition is the overriding consideration in the market place today. To require only a few ILECs to provide service quality data will tell the Commission very little about overall market quality conditions. It does, however, distort competition and impose an anticompetitive burden on the ILECs that are required to report the current data. Every dollar that is spent collecting data that serves no business purpose other than to satisfy regulatory requirements is a dollar that cannot be spent improving customer service quality, identifying market needs, developing new products to meet those needs and improving carrier productivity.<sup>14</sup>

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<sup>13</sup> *Notice* ¶ 29.

<sup>14</sup> These types of reports not only burden the price cap ILECs but also place a considerable burden on the Commission staff. The Commission now devotes substantial staff resources to implementing accounting, cost allocation and ARMIS reporting requirements that serve no useful purpose when applied to price cap ILECs. Elimination of these reports would free up substantial Commission staff resources that could then be redeployed to assist consumers. For example, with the explosion of appliances and devices being attached to the public switched network, consumers need the Commission to actively oversee that this equipment meets applicable Commission regulations and does not interfere with proper operation of the network. Accordingly, BellSouth urges the Commission to move aggressively in this and other biennial review proceedings to reduce unnecessary regulation.

Just as with the reporting of broadband issues discussed above, however, BellSouth contends that it is beyond the scope of this proceeding to impose new or additional regulatory requirements on any entity. Because imposing such requirements on CLECs would be beyond the scope of this proceeding, the Commission should not require CLECs, or any other entity, to file service quality information. Thus, any existing service quality reporting requirements, streamlined or not, would continue to fall exclusively on the price cap ILECs and, once again, be meaningless.

### **C. Public Disclosure of Service Quality Data**

The *Notice* seeks comments on “whether an effective method of publicizing service quality data would be for carriers to post service quality data on their web sites.” The *Notice* goes on to indicate that if carriers were required to post the information on an Internet site, they would still be required to file the information with the Commission. As the *Notice* states, the ARMIS reports are currently available on the Commission’s web site. Thus, if ILECs are required to continue reporting service quality information, any customer that has access to the Internet could just as easily obtain the information from the Commission’s web site as from the ILECs’ web sites. In fact, it would be easier for the customer to obtain the information from the Commission’s centralized location than having to go to the various ILEC sites -- “[i]f there is a big hole in the fence for the big cat, need there be a small hole in the fence for the small cat.”<sup>15</sup>

### **D. Other**

The *Notice* also seeks comments on how frequently the reports should be filed. Additionally, it asks whether the record retention period for the service quality data maintained by the ILECs should be shortened and whether the Commission should discontinue the

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<sup>15</sup> *Polaroid Corp. v. IRS*, 278 F.2d 148, 153 (1<sup>st</sup> Cir. 1960).

requirement that the service quality data be disaggregated between Metropolitan Statistical Area (“MSA”) and non-MSA.

If the Commission does not eliminate the reporting requirements, it must not increase any current regulatory burden. Thus, the reports should not be filed more often than their current annual requirement.

If the reporting prescription continues, BellSouth supports the reduction of maintaining the data for two years, as proposed by USTA, instead of the current four-year requirement. In the fast paced competitive environment, four years is entirely too long to maintain this type of data. Finally, BellSouth supports USTA proposal to stop requiring the disaggregation of information on a MSA and non-MSA basis. As argued by USTA, there is no significant variance in performance for MSA and non-MSA areas that would justify such a distinction.

#### **E. Elimination of Other Reporting Requirements**

The *Notice* acknowledged that there were some reporting requirements that could be completely eliminated. As the above comments fully demonstrate, BellSouth supports the elimination of the service quality report in its entirety, however, if the Commission does not completely eliminate the report, BellSouth obviously supports the elimination of the requirements proposed in the *Notice*. BellSouth provides specific comments regarding the following items.

##### **1. Elimination of Table Reports Regarding Services Provided to Interexchange Carriers**

The *Notice* seeks comments on the elimination of Table I of the service quality report, which reports LEC installation and repair intervals for access services provided to interexchange carriers (“IXCs”) and Table III, which provides information about common trunk group blockage. The IXCs are the largest and most sophisticated customers of the price cap LECs.

These carriers monitor the quality of the access services provided to them on a real-time basis and insist on immediate corrective action if there is a service disruption. Non-discrimination requirements assure smaller IXC's of comparable service quality. These access customers of the LECs do not need a report filed a year after the fact in order to receive adequate service quality.

If BellSouth's experience is not typical, the Commission always can request additional information from the providers whose data is troubling. There is no need to burden carriers whose data is not suspect with additional reporting requirements.

## **2. Customer Survey Report**

As BellSouth stated above, the customer satisfaction survey report is of no relevant value to anyone. BellSouth fully supports its elimination and commends the Commission on its proposal.

## **3. Proposals in the NARUC White Paper**

Finally, the *Notice* seeks comments on the proposals set forth in the National Association of Regulatory Utility Commissioners ("NARUC") White Paper on service quality. The *Notice* indicates that the installation and repair portion of the White Paper proposes some reporting requirements similar to those in the *Notice*. The White Paper, however, proposes that the Commission should also collect data beyond the data currently reported in ARMIS. For example, the White Paper proposes that answer time performance metric should be reported on a national level. For the same reasons discussed above, BellSouth is also opposed to proposals in the NARUC White Paper. Again, the Commission cannot add new regulatory requirements in a proceeding established to reduce existing requirements. Thus, the Commission should reject the recommendations in the NARUC White Paper.

## CONCLUSION

As shown above, maintaining regulatory burdens in the absence of a clear public interest requirement violate the letter and the spirit of the 1996 Act. BellSouth urges the Commission to eliminate unnecessary regulation and not add new regulatory burdens, absent a showing of compelling need. No such showing is possible with regard to the proposals in the *Notice*. Therefore, the ARMIS 43-05 service quality report and the ARMIS 43-06 customer satisfaction report, as proposed by the Commission, should be eliminated.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I do hereby certify that I have this 12<sup>th</sup> day of January 2001 served the following parties to this action with a copy of the foregoing **COMMENTS** by electronic filing to the parties listed below.

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